

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2404**

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**Introduced by Assembly Member Fuentes**

February 24, 2012

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An act to add Part 8 (commencing with Section 38600) to Division 25.5 of the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

AB 2404, as amended, Fuentes. California Global Warming Solutions Act of 2006: Local Emission Reduction Program.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions and authorizes the state board to use market-based compliance mechanisms to achieve these ends. The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee to be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for the purposes of carrying out the act.

This bill would create the Local Emission Reduction Program and would ~~require~~ *permit* specified moneys collected ~~under the~~ *pursuant to* market-based compliance mechanisms *to* be available, upon appropriation by the Legislature, for ~~award under the program to~~ *specified local governmental entities for specified purposes by the state board purposes of carrying out the Global Warming Solutions Act of 2006.* The bill would require the state board, in coordination with *the Strategic Growth Council and other state* ~~agencies entities,~~ as appropriate, to ~~develop standards and guidelines to ensure the funded projects maximize the funds appropriated, provide environmental and economic benefits, and do not conflict with the act~~ *provide local assistance grants to eligible recipients for the purposes of developing and implementing multibenefit greenhouse gas emission reduction projects in this state.* The bill would authorize the Strategic Growth Council to award moneys under the program to a county, or counties, that adopts a local greenhouse gas emission reduction program, as certified by the state board, that achieves specified purposes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The reduction of greenhouse gas emissions is critical to
- 4 public health, safety, the economy, and the natural environment
- 5 that *California* residents rely on.
- 6 (b) State investments in local and regional greenhouse gas
- 7 emission reduction projects *in this state* help local communities
- 8 thrive, support the state's emission-reduction and clean-energy
- 9 targets, lower the statewide unemployment rate, and spur new job
- 10 growth.
- 11 (c) Incentivizing local governments to plan and implement their
- 12 own greenhouse gas emission reduction efforts will assist the state
- 13 to reach its emission-reduction targets faster and more efficiently.
- 14 (d) Local and regional governments that partner with
- 15 not-for-profit entities and community groups can identify, plan,
- 16 and implement innovative community-scale emission-reduction
- 17 initiatives and projects that utilities and other regulated entities
- 18 may not identify or participate in.

1 (e) Local greenhouse gas emission reduction initiatives best  
2 recognize the particular reduction opportunities at the local level  
3 and provide an opportunity to enhance the environment and  
4 economy of local and regional places through multibenefit projects.

5 (f) Local governments are well-suited to coordinate and  
6 aggregate micro-, small-, community-, and regional-scale projects  
7 that will help the state reach its environmental targets while  
8 incentivizing investments and job growth at the local level.

9 (g) It is the intent of the Legislature to promote investments in  
10 coordinated and aggregated local and regional greenhouse gas  
11 emission reduction projects.

12 SEC. 2. Part 8 (commencing with Section 38600) is added to  
13 Division 25.5 of the Health and Safety Code, to read:

14  
15 PART 8. LOCAL EMISSION REDUCTION PROGRAM

16  
17 38600. (a) The Local Emission Reduction Program is hereby  
18 created.

19 (b) Moneys collected pursuant to Part 5, excluding penalties  
20 and fines, ~~shall~~ may be available, upon appropriation by the  
21 Legislature, for purposes of carrying out this ~~division~~ part.

22 ~~(c) The state board shall award the moneys appropriated to the~~  
23 ~~Local Emission Reduction Program to cities, counties, city and~~  
24 ~~county governments, metropolitan planning organizations, special~~  
25 ~~districts, and joint powers authorities for measures and programs~~  
26 ~~that are consistent with a locally adopted greenhouse gas emission~~  
27 ~~reduction plan that includes and maximizes viable partnerships~~  
28 ~~with other local governments, Native American tribes,~~  
29 ~~not-for-profit entities, regional bodies, California Conservation~~  
30 ~~Corps, state-certified local conservation corps, and local Youth~~  
31 ~~Build programs. The plan shall identify and maximize all of the~~  
32 ~~following:~~

33 ~~(1) Micro-, small-, community-, and regional-scale greenhouse~~  
34 ~~gas emission reduction opportunities, including sequestration.~~

35 ~~(2) Opportunities to change or update existing local and regional~~  
36 ~~plans, policies, or programs to achieve greenhouse gas emission~~  
37 ~~reductions.~~

38 ~~(3) Opportunities to achieve greenhouse gas emission reductions~~  
39 ~~in ways that increase adaptability or resiliency to extreme weather~~  
40 ~~events.~~

1 ~~(4) Opportunities to achieve greenhouse gas emission reductions~~  
2 ~~in ways that create local job training and job creation benefits.~~

3 ~~(5) Opportunities to achieve greenhouse gas emission reductions~~  
4 ~~in ways that decrease air or water pollution.~~

5 ~~(6) Opportunities to achieve greenhouse gas emission reductions~~  
6 ~~in ways that reduce the consumption of natural resources or energy.~~

7 ~~(7) Opportunities to achieve greenhouse gas emission reductions~~  
8 ~~in ways that increase localized energy resources.~~

9 ~~(8) Opportunities to achieve greenhouse gas emission reductions~~  
10 ~~in ways that increase the reliability of local water supplies.~~

11 ~~(9) Opportunities to achieve greenhouse gas emission reductions~~  
12 ~~in ways that reduce or avoid vehicle miles traveled.~~

13 ~~(10) Opportunities to coordinate and aggregate greenhouse gas~~  
14 ~~emission reduction projects or programs.~~

15 ~~(11) Opportunities to achieve greenhouse gas emission~~  
16 ~~reductions in ways that reduce or avoid costs to the state or local~~  
17 ~~governments.~~

18 *(c) (1) The state board, in coordination with the Strategic*  
19 *Growth Council and other state entities, as appropriate, shall*  
20 *establish the Local Emission Reduction Program to provide local*  
21 *assistance grants to eligible recipients for the purposes of*  
22 *developing and implementing multibenefit greenhouse gas emission*  
23 *reduction projects in this state.*

24 *(2) The Strategic Growth Council shall administer the Local*  
25 *Emission Reduction Program.*

26 *(d) An eligible recipient under the Local Emission Reduction*  
27 *Program shall be any county, or combination of counties, that*  
28 *adopts a local greenhouse gas emission reduction plan certified*  
29 *by the state board and that enters into a memorandum of*  
30 *understanding for the purposes of developing and implementing*  
31 *projects consistent with this division with cities in its jurisdiction*  
32 *as well as any state conservancies, metropolitan planning*  
33 *organizations, regional climate protection authorities, special*  
34 *districts, air pollution control and air quality management districts,*  
35 *or joint powers authorities that many choose to participate.*

36 *(e) A local greenhouse gas emission reduction plan is a*  
37 *comprehensive plan for emission reduction projects in a local or*  
38 *regional area that identifies and maximizes any viable partnerships*  
39 *with Native American tribes, not-for-profit entities, regional*  
40 *collaboratives, California Conservation Corps, state-certified*

1 *local conservation corps, and local Youth Build programs. A local*  
2 *greenhouse gas emission reduction plan shall seek to achieve one*  
3 *or more of the following:*

4 *(1) The development of micro-, small-, community-, and*  
5 *regional-scale greenhouse gas emission reduction or sequestration*  
6 *projects.*

7 *(2) The implementation of existing plans that reduce greenhouse*  
8 *gas emissions.*

9 *(3) The achievement of greenhouse gas emission reductions in*  
10 *ways that increase adaptability or resiliency to extreme weather*  
11 *events and other climate change impacts.*

12 *(4) The conservation of energy, the promotion of energy*  
13 *efficiency, or the increase of localized clean energy resources.*

14 *(5) The protection of natural resources and the conservation of*  
15 *benefits or greenhouse gas mitigation, including urban and*  
16 *community greening, sequestration, green print implementation,*  
17 *agricultural preservation, natural community conservation plan*  
18 *development and implementation, and open-space protection.*

19 *(f) The Strategic Growth Council shall award local assistance*  
20 *grants on a competitive basis based on the potential for greenhouse*  
21 *gas emission reductions, including sequestration, with*  
22 *consideration also given to the ability of a project or projects to*  
23 *provide any of the following:*

24 *(1) Create local job training and job creation benefits.*

25 *(2) Decrease air or water pollution.*

26 *(3) Reduce the consumption of natural resources or energy.*

27 *(4) Increase the reliability of local water supplies.*

28 *(5) Distribute fair and equitably Local Emission Reduction*  
29 *Program funding throughout the state.*

30 *(g) The Strategic Growth Council shall ensure that the Local*  
31 *Emission Reduction Program provides opportunities for both small*  
32 *and large population participants.*

33 ~~(e)~~

34 *(h) (1) Any local greenhouse gas emission reduction plan*  
35 *adopted for purposes of subdivision ~~(e)~~ (d) shall provide for public*  
36 *notice and at least one opportunity for public input.*

37 *(2) If the adoption of a local greenhouse gas emission reduction*  
38 *plan pursuant to subdivision (d) is subject to the California*  
39 *Environmental Quality Act (Division 13 (commencing with Section*  
40 *21000) of the Public Resources Code) or Section 65080 of the*

1 *Government Code, the procedures in those sections shall govern*  
2 *the adoption of a local greenhouse gas emission reduction plan.*

3 38601. The state board, in coordination with other state  
4 agencies, as appropriate, shall develop standards and guidelines  
5 to ensure projects funded pursuant to this part maximize funds  
6 appropriated, provide environmental and economic benefits, and  
7 do not conflict with this division.

8 38602. The state board shall ~~approve funding for a measure or~~  
9 ~~program, awarded~~ *certify a local greenhouse gas emission*  
10 *reduction plan adopted* pursuant to this part, only after determining,  
11 based on the available evidence, that ~~the use of moneys for that~~  
12 ~~measure or program is~~ *the projects identified are* consistent with  
13 the requirements for the use of moneys derived from valid  
14 regulatory fees, as established by the California Supreme Court in  
15 *Sinclair Paint Co. v. State Bd. of Equalization* (1997) 15 Cal.4th  
16 866.